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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,182	03/06/2001	John Philipson	35682-8002US	4103
25096	7590	10/28/2003	EXAMINER	
PERKINS COIE LLP PATENT-SEA P.O. BOX 1247 SEATTLE, WA 98111-1247			MEDLEY, MARGARET B	
			ART UNIT	PAPER NUMBER
			1714	

DATE MAILED: 10/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

09/801,182

**Applicant(s)**

PHILIPSON, JOHN

**Examiner**

Margaret B. Medley

**Art Unit**

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/06/01 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

The pending claims of record are claims 1-41.

The instant application has been filled with 7 sheets of formal drawings.

The amendment to the specification at page 6 has been entered of record.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no punctuation marking found at the end of line 3 of claim 1. Therefore the said claim is indefinite because it is unclear as to what else is included in the pellet and the intended scope that applicant intends to encompass is unclear especially in light of the open-ended language "comprising." In the interest of compact prosecution claim 1 will be treated on the merits containing a period punctuation at the end of pound in line 3. However, applicant is required to clarify the record as to the scope of claim 1.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-8, 10-32 and 34-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard et al (Howard) GB 1,286,532 combined with Schulz 5,431,702 and Benson et al (Benson) 5,429,645.

Howard teaches combustible pellets and method for producing pellets, note page 1, lines 21-39 and 57-81 and claims 1-2, wherein coal is further added to the fuel composition and the pellets have a 11,000 BUT per pound heating value.

Howard is silent to the teaching for the <10% by weight water content, fuel value of 12,000 to 14,000 BTU per pound, the dimension of the pellet, and an anaerobic digestion step following the separation and recyclable steps.

Benson teaches a pellets and method for producing said pellet comprising an anaerobic digestion step, column 4, lines 12-48 to produce high energy residue having a heat value @ 8,500 to 10,5000 BTU/lb, abstract, column 8, lines 35-41, Fig. 7 and claims 1-10 and BTU values from 9,500-18,000, note Fig. 5, column 3, lines 12-17. Schulz teaches briquettes of cylinder shape, column 5, line 36 having dimension of 2 x 0.25 x 2.25, column 5, line 50-52, the pellet having a moisture content of about 10

weight %, Example 7, that render obvious the 1-7% wt. water of the instant claims, note also the pellet having 10 to 12% wt. water column 3, lines 35-37 and claims 24 and 7.

It would have been obvious to the artisan in the art to use MSW having the moisture content, BTU values, and derived with the use of an anaerobic digestion step and to produce pellets of the shape and dimensions of Benson and Schulz to render obvious the instant claims. It would have been obvious to the artisan in the art to use digestion gas e.g. methane of Benson as a fuel to drive a gas-fuel turbine engine because turbines require fuel of high quality free of impurities as the methane gas to render claim 22 obvious and to use the gas to dry the waste to aid in the recycle of the fuel gas to render obvious claim 23.

Claims 9 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard et al (Howard) GB 1,286,532 combined with Schulz 5,431,702 and Benson et al (Benson) 5,429,645 as applied to claims 1-8, 10-32 and 34-42 above, and further in view of Chieffalo et al (Chieffalo) 5,779,164.

Applicants further claim emissions products produced during combustion wherein Howard combined with Schulz and Benson are silent to said teachings.

Chieffalo teaches a method for producing MSW and MSW products having relative proportion of particulate matter, cadmium, lead, mercury, dioxin/furan, hydrochloric acid, sulfur dioxide and nitrogen oxides in ranges that overlap and/or encompass the ranges of instant claims 9 and 33 rendering obvious the said claims, note column 8, lines 59 to column 10, line 35, Table 2 and Table 11 of column 19 and 20 and column 5, line 37 to column 6, line 60.

It would have been obvious to the artisan in the art that the MSW of Chieffalo used as the MSW of the primary reference would produce emissions products in the ranges that would render obvious instant claims 9 and 33.

The prior art cited but not applied further discloses MSW and process for producing the same and uses of its by-products of the same nature as that of the instant claims.

Any inquiry concerning this communication from the examiner should be directed to Margaret B. Medley whose telephone number is (703) 308-2518. The examiner can generally be reached on Monday--Friday from 7:30 a.m. to 6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone number for the organization where this application is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

M.B. Medley/dh  
October 20, 2003

  
MARGARET MEDLEY  
PRIMARY EXAMINER